

1  
2  
3  
4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 GREGORY TYREE BROWN,  
7 Plaintiff,  
8 v.  
9 RICHARD MORGAN,  
10 Defendants.

Case No. C16-5975 RBL-TLF

ORDER GRANTING MOTION TO  
SUBSTITUTE PARTIES

11 Plaintiff has filed a motion to substitute parties. Dkt. 32. Plaintiff seeks to substitute the  
12 Steve Sinclair, the current Secretary of the Washington State Department of Corrections, in his  
13 official capacity, for claims brought in the Second Amended Complaint against defendants  
14 Bernard Warner and Eldon Vail in their official capacities.

15 State officials sued in their official capacities are persons for purposes of § 1983, but only  
16 for purposes of injunctive or declaratory relief. *Will v. Mich. Dep't of State Police*, 491 U.S. 58,  
17 71 n.10. The Second Amended Complaint seeks declaratory and injunctive relief, as well as  
18 damages. Dkt. 14 at 4. The proper defendant in an official capacity claim is the current occupant  
19 of the office. Fed. R. Civ. P. 25(d). A former officer's successor is automatically substituted, but  
20 later proceedings "should be in the substituted party's name." *Id.* The court "may order  
21 substitution at any time[.]" *Id.* It is therefore appropriate to substitute the current Secretary for  
22 purposes of plaintiff's official capacity claims.

1 It is therefore **Ordered:**

- 2 (1) Steve Sinclair is substituted for defendants Bernard Warner and Eldon Vail as an  
3 official capacity defendant in plaintiff's Second Amended Complaint, for  
4 purposes of injunctive and declaratory relief only; and
- 5 (2) The Clerk shall provide a copy of this Order to plaintiff and shall include it with  
6 the service of the Second Amended Complaint on defendants.

7 Dated this 10th day of September, 2018.

8 

9 

---

10 Theresa L. Fricke  
11 United States Magistrate Judge

12

13

14

15

16

17

18

19

20

21

22

23

24

25